

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)	
)	
v.)	ID No. 0411013992
)	
TYRONE L. GUINN,)	
)	
Defendant.)	

Submitted: June 13, 2006
Decided: August 16, 2006

ORDER

UPON DEFENDANT’S MOTION FOR POSTCONVICTION RELIEF

DENIED

Upon review of Tyrone L. Guinn (“Defendant”)’s Motion for Postconviction Relief and the record, it appears to the Court that:

1. Defendant was found guilty of Assault in a Detention Facility following a jury trial on May 20, 2005. Effective July 1, 2005, Defendant was sentenced to 8 years at Level V (suspended after 3 years); 3years at Level IV Halfway House (suspended after 1 year); followed by 2 years at Level III. The first year of this sentence is a mandatory term of incarceration.

2. Defendant previously filed a *pro se* Motion for New Trial on March 27, 2006; and a *pro se* Motion for Postconviction Relief on April 25, 2006. Both motions

were denied by this Court on May 25, 2006.

3. Defendant's current *pro se* Motion for Postconviction Relief was filed on June 6, 2006. In the current motion, Defendant repeats some of the assertions of his earlier postconviction relief motion. Defendant's argues that he is entitled to postconviction relief because his attorney failed to provide him with effective representation at trial by: (i) failing to subpoena/cross-examine defense witnesses; and (ii) depriving Defendant of his rights by not advising him of his rights, not informing Defendant what was next after the notice of appeal, and filing briefs with the Supreme Court before sending Defendant a copy. Defendant also asserts that he is entitled to postconviction relief because the trial court erred as a matter of law when it denied his motion for judgment of acquittal.

4. In evaluating a postconviction relief motion, the Court must first ascertain if any procedural bars of Superior Court Criminal Rule 61(i) apply.¹ If a procedural bar is found to exist, the Court should refrain from considering the merits of the individual claims. This Court will not address claims for postconviction relief that are conclusory and unsubstantiated.² Pursuant to Rule 61(a), a motion for

¹ See *Younger v. State*, 580 A.2d 552, 554 (Del. 1990); Super. Ct. Crim. R. 61(i).

² See *Younger*, 580 A.2d at 555; *State v. Conlow*, Del. Super., Cr. A. No. IN78-09-0985R1, Herlihy, J. (Oct. 5, 1990) at 5; *State v. Gallo*, Del. Super., Cr. A. No. IN87-03-0589-0594, Gebelein, J. (Sept. 2, 1988) at 10.

postconviction relief must be based on "a sufficient factual and legal basis." In addition, pursuant to Rule 61(b)(2), "[t]he motion shall specify all the grounds for relief which are available to movant ..., and shall set forth in summary form the facts supporting each of the grounds thus specified." Any ground for relief not asserted in a prior postconviction relief motion is thereafter barred unless consideration of the claim is necessary in the interest of justice.³ Similarly, grounds for relief not asserted in the proceedings leading to the judgment of conviction are thereafter barred, unless the movant demonstrates: (1) cause for the procedural default; and (2) prejudice from the violation of movant's rights.⁴ Any formerly-adjudicated ground for relief, whether in a proceeding leading to the judgment of conviction, in an appeal, or in a postconviction proceeding, is thereafter barred, unless reconsideration of the claim is warranted in the interest of justice.⁵

5. Defendant's previous *pro se* motion for postconviction relief was filed on April 25, 2006, and denied on May 25, 2006. Therefore the procedural bar of Rule 61(i)(2) is applicable as to any ground for relief **not** asserted by Defendant in the earlier motion for postconviction relief, and any ground for relief that **was** asserted

³Del. Super. Ct. Crim. R. 61(i)(2).

⁴Del. Super. Ct. Crim. R. 61(i)(3).

⁵Del. Super. Ct. Crim. R. 61(i)(4).

in that motion is barred by Rule 61(i)(4).

6. The grounds raised by Defendant in his current postconviction relief motion were addressed in his previous postconviction relief motion. Superior Court Criminal Rule 61(i)(4) bars reconsideration, on a postconviction relief motion, any ground for relief that was formerly adjudicated. Defendant claims that the Court should consider his current motion because the legal arguments have been “corrected.” The Superior Court is not required to re-examine a claim that has received “substantive resolution” at an earlier time simply because the claim is refined or restated.⁶

7. Defendant’s motion for postconviction relief must be denied as it is procedurally barred pursuant to Rule 61(i)(4). To protect the integrity of the procedural rules, the Court will not consider the merits of the postconviction claims where a procedural bar exists.⁷

⁶*Johnson v. State*, 612 A.2d 158, 158 (Del.1992).

⁷*State v. Gattis*, Del. Sper., Cr. A. No IN90-05-1017, Barron, J. (Dec. 28, 1995)(citing *Younger v. State*, 580 A.2d. at 554; *Saunders v. State*, Del. Supr., No. 185, 1994, Walsh, J. (Jan. 13, 1995)(ORDER); *Hicks v. State*, Del. Supr., No. 417, 1991, Walsh, J. (May 5, 1992)(ORDER).

THEREFORE, Defendant's Motion for Postconviction Relief is hereby
DENIED.

IT IS SO ORDERED.

The Honorable Mary M. Johnston

ORIGINAL: PROTHONOTARY'S OFFICE - CRIMINAL DIV.